

UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: William A. Welsh
Serial No.: 10/685,215
Filed: October 14, 2003
Group Art Unit: 3682
Examiner: Johnson, Vicky A.
Title: ACTIVE FORCE GENERATION SYSTEM FOR MINIMIZING
VIBRATION IN A ROTATING SYSTEM

Commissioner for Patents
Mail Stop Appeal Brief-Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

In the Response to Argument section, the Examiner admits that the *Ueda* reference (in Japanese) was included with the final rejection mailed July 17, 2007 along with an English abstract. The Examiner then states:

The rejection specifically cites the Ueda patent with references made to the drawings and the reference characters, which as stated by the applicant, are not included in the abstract. The rejection relied upon the Ueda patent, not the abstract. The abstract was only provided as a convenience for the applicant.

The Examiner has just made Appellant's point. The Examiner is relying upon the untranslated portion of the *Ueda* patent and not the abstract. This is improper. MPEP §706.02.II (in pertinent part) states:

If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection.

Since the Examiner seeks to rely on the *Ueda* patent and no translation was received until receipt of the Examiner's Answer, the record is simply not clear as to the precise facts the Examiner is relying upon in support of the rejection. Appellant respectfully requests that the rejection be overturned.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.

/David L. Wisz/

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